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November 24, 2015

By ECF

The Honorable Cheryl L. Pollak
United States Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Rodney Smith et als. v. City of New York, 15-CV-0385 (PKC) (CLP)

Your Honor:

I am one of the attorneys representing plaintiffs in this case alleging that defendants used excessive force during a February 16, 2015 incident on Rikers Island. At a conference held on November 17, 2015, Your Honor ordered defendants to produce video footage of the incident and the parties agreed there would be a Protective Order. Defendants now request that this Order prevent Plaintiffs from seeing this video. Plaintiffs oppose this request and ask the Court to allow plaintiffs to view this video in the presence of their lawyers.

According to defendants' initial disclosures, over eighty individuals were involved in this incident. More than twenty of these individuals are inmates who are not parties, and approximately forty are potential defendants. Without assistance of plaintiffs, it will be impossible for counsel to determine each plaintiff's location, as well as the validity of plaintiffs' claims. This type of pre-discovery investigation is precisely the reason production was Ordered. The defendants' assistance will save attorney time and streamline this litigation.

Defendants assert that plaintiffs' participation could compromise an ongoing Department of Corrections inquiry. Plaintiffs disagree. The video will provide an objective rendering of the events. Plaintiffs' viewing will not change the video's content and no prejudice will ensue. Plaintiff respectfully requests that Your Honor issue the submitted Protective Order without the prohibition against plaintiffs' viewing.

Respectfully,

/s/

Robert Marinelli